

§ 96.134 Maintenance of effort regarding State expenditures.

(a) With respect to the principal agency of a State for carrying out authorized activities, the agency shall for each fiscal year maintain aggregate State expenditures by the principal agency for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the two year period preceding the fiscal year for which the State is applying for the grant. The Block Grant shall not be used to supplant State funding of alcohol and other drug prevention and treatment programs.

(b) Upon the request of a State, the Secretary may waive all or part of the requirement established in paragraph (a) of this section if the Secretary determines that extraordinary economic conditions in the State justify the waiver. The State involved must submit information sufficient for the Secretary to make the determination, including the nature of the extraordinary economic circumstances, documented evidence and appropriate data to support the claim, and documentation on the year for which the State seeks the waiver. The Secretary will approve or deny a request for a waiver not later than 120 days after the date on which the request is made. Any waiver provided by the Secretary shall be applicable only to the fiscal year involved. "Extraordinary economic conditions" mean a financial crisis in which the total tax revenue declines at least one and one-half percent, and either unemployment increases by at least one percentage point, or employment declines by at least one and one-half percent.

(c) In making a Block Grant to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year or years, the State maintained material compliance with any agreement made under paragraph (a) of this section. If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

(d) The Secretary may make a Block Grant for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in paragraph (a) of this section, which includes the dollar amount reflecting the aggregate State expenditures by the principal agency for authorized activities for the two State fiscal years preceding the fiscal year for which the State is applying for the grant. The base shall be calculated using Generally Accepted Accounting Principles and the composition of the base shall be applied consistently from year to year.

§ 96.135 Restrictions on expenditure of grant.

(a) The State shall not expend the Block Grant on the following activities:

(1) To provide inpatient hospital services, except as provided in paragraph (c) of this section;

(2) To make cash payments to intended recipients of health services;

(3) To purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(4) To satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

(5) To provide financial assistance to any entity other than a public or non-profit private entity; or

(6) To provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for AIDS.

(b) The State shall limit expenditures on the following:

(1) The State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant; and

(2) The State will not, in expending the grant for the purpose of providing